

HCS HB 499 -- BUSINESS RECORDS AS EVIDENCE

SPONSOR: DeGroot

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 7 to 4. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 8 to 4.

This bill specifies that, in civil actions filed in associate circuit courts, a record of an event or opinion shall not be excluded by the rule against hearsay regardless of whether the declarant is available if certain elements, set out in the bill, are satisfied. Furthermore, records or copies of records reproduced in the ordinary course of business by a process that meets certain requirements, provided in the bill, shall be admissible as business records upon certification of the custodian or other qualified person. Seven days before trial or hearing, the proponent shall give an adverse party written notice of the intent to offer the record and shall make the record and certification available for inspection.

PROPONENTS: Supporters say that Missouri is one of the only states left with an antiquated rule. This bill would make Missouri's law similar to Federal Rule of Evidence 803, but Missouri's law would require the evidence to be presented to the opposing party seven days prior to trial. Changing the way things are currently done would not mean that a record would automatically be admitted, and it would not create a presumption that the evidence would be probative if admitted.

Testifying for the bill were Representative DeGroot and Scott Walterbach, Creditors Bar Inc.

OPPONENTS: Those who oppose the bill say that the practical effect of this bill would mean entities that purchase debt from other companies would have to do their own investigations before suit is filed, because otherwise they are attesting to the credibility of records that they did not create. It completely ignores the foundation of the hearsay rule; this would essentially amount to letting in third-party hearsay. Additionally, this would devastate tens of thousands of Missourians who get sued every year. Currently, the evidence is required to be presented at least seven days in advance, and, if it isn't, the party attempting to introduce the evidence would be prohibited from doing so. This bill would remove the penalty for not presenting the evidence with sufficient notice.

Testifying against the bill were Dale Irwin and Jim Daher.

